

June 18, 2006



Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Notice of Ex parte* presentation in MB Docket No. 98-120

Dear Ms. Dortch:

On June 16, 2006, Harold Feld and Jessica Gonzalez of Media Access Project met with Commissioner Adelstien and his advisor, Barry Ohlson. In the course of the discussion, Mr. Adelstien asked Mr. Feld to clarify points raised in previous filings by Media Access Project and PIPAC. In response to these questions, Mr. Feld stated: (1) that reliance on the Commission's "ancillary authority" under the statutes furthering the DTV transition as an independent source of authority for multicast must carry was unlikely to prevail, and could prompt the DC Circuit to further narrow the Commission's ancillary authority; (2) that absent public interest obligations, the constitutional basis of multicast must carry remained suspect; (3) however, if the Commission imposed public interest obligations on digital broadcasters independent of multicast must carry, but simultaneously with authorizing multicast must carry, it would reenforce the constitutionality of must carry by ensuring that the additional burden on cable operators would in fact serve the government purpose "of the highest order" in ensuring a sufficiently informed citizenry exposed to diverse perspectives and local news; and (4) such obligations did not violate the constitutional rights of broadcasters.

In accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206, this letter is being filed with your office. If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

Harold Feld  
Senior Vice President

cc:  
Commissioner Adelstien  
Barry Ohlson